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MENOMINEE CONSTITUTION HANDBOOK

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INTRODUCTION TO MENOMINEE CONSTITUTION HANDBOOK

An Indian tribe can be defined in two ways: (1) as a society of people bound together by a common history and culture, and (2) as a government. The Menominee Termination Act and the Menominee Restoration Act both affect only the status of the Menominee Tribe as a government recognized as such by the United States. By the Termination Act, the United States declared that it no longer recognized the Menominee Tribe as a government. Then, eighteen years later, by the Restoration Act, the United States reversed itself and declared that it again recognized the Menominee Tribe as a government. In order to permit a resumption of relationships between the Menominee Tribe and the United States Government, the Restoration Act authorized the Secretary of the Interior, upon request of the Menominee Restoration Committee, to conduct an election to determine the Tribe's constitution, that is, its form of government. The Act sets the deadline for such election as "within 60 days after final certification of the tribal roll." The Menominee Restoration Committee has been elected to draft the Menominee Constitution.

This handbook has been compiled to aid the Menominee Restoration Committee in its job of drafting a constitution for the Menominee Tribe. It is intended to present information and ideas, and to raise considerations so that the Committee may make its decisions advisedly. Generally, the handbook is planned, first to present a comprehensive view of government as a whole; second to present information on forms of government, their strengths and weaknesses; and third, to summarize information and present examples of provisions generally included in constitutions. Based upon decisions of the Committee, sections of the proposed constitution can be drafted and coordinated into a complete document.

Most of the possible constitution provisions will be based upon the form of government decided upon by the Committee. Information regarding specific kinds of provisions will be added after the decision as to the form of government. In addition, questions may arise in the course of discussion which were not anticipated when this handbook was originally compiled and which call for further research. For these reasons, the handbook is in looseleaf form so that information can be added as needed.

The job of drafting a constitution is the job of establishing a government. It is a difficult job. Like an architect of a building who decides upon the right framework and then decides upon the many details of the inner structure, the Committee must decide on a framework of the government and then it must decide on the many details or constitution provisions which will be the inner structure of the government. Again, like an architect planning a building, the Committee must at all times consider how its plan will operate in reality. Thus, the job requires a great deal of foresight and imagination, as well as time to make all the many detailed decisions required. Hopefully, the Committee's efforts will ultimately result in a government which will serve the Menominee Tribe well for a long time to come.

I. GENERAL BACKGROUND

A. The Importance Of A Constitution To The Sovereignty Of Tribal Governments.

The term "tribal sovereignty" means the extent of a tribe's ability to exercise the powers of self-government. Tribal sovereignty always faces two dangers, either of which can severely limit its scope or even destroy it: first, external interferences in the tribe's right of self-government, in the form of federal restrictions on the sovereign powers of tribes or in the form of imposition by state and local governments of their powers; and second, the failure of the tribe internally to establish a government capable of exercising fully and fairly the powers of self-government.

Indian tribal governments have historically been protected against the first danger to tribal sovereignty - interference by outside governments - by the laws of the United States. The central principle of federal Indian law is that Indian tribal governments retain all the powers of a sovereign government except as those powers have been expressly limited by the laws of the United States. However, a tribal government does not receive the protection of federal laws unless it is recognized by the United States as a government entitled to such protection. The experience of termination has shown that without the protection of federal laws, tribal governments and tribal sovereignty are not likely to survive amidst the stronger state and local governments. Thus, federal recognition of a tribal government grants to the tribe federal protection of its right to tribal sovereignty; that is, the right to exercise full powers of self-government except as limited by federal law. The Menominee Restoration Act restored federal recognition and protection to the Menominee tribal government.

The second danger to tribal sovereignty - the failure of a tribe to establish a government capable of exercising fully and fairly the powers of self-government - is probably a greater danger than the first because it occurs gradually, without the drama which accompanies the sudden impact of the passage of a federal law. Therefore, it is not as easily recognized as the first danger.

This second danger to tribal sovereignty results when two situations are allowed to occur in the tribe's government. First, when a tribal government is restricted by the constitution in its authority to exercise the powers of tribal government, it cannot fully serve the needs and wants of the tribal people. Inevitably, services which are needed but which the tribal government cannot provide will be provided by other governments. If the federal government provides them, the tribal government loses one of its most important reasons for existence and thus a great deal of its importance to the tribal people. If the state and local governments provide services, they thereby establish claim to the gratitude and loyalty of the tribal people, as well as a claim that certain duties are owed by the tribal people to that government in return for the services provided. Thus, to the extent the constitution allows external governments to furnish services

to the tribe which the tribal government could furnish if it were so authorized, it diminishes the tribe's sovereignty - the ability of the people to govern themselves.

Second, tribal people are likely to become dissatisfied and disrespectful of a tribal government that is not respectful of what the tribe considers to be basic rights of the tribe and of its members. When this situation occurs to any great extent, internal disorder may result which is an open invitation to outside governments to interfere in tribal self-government for what those governments believe to be the good of the people.

Indian tribes can, in part, protect themselves from this second danger to tribal sovereignty by drafting and adopting a constitution designed to permit the fullest possible exercise of tribal powers of self-government, while providing the fullest possible protection for the people against misuse of that power and against government infringement on rights of individual members and the tribe.

In conclusion, the Menominee constitution is an important document because it is the basic document which can make tribal sovereignty a reality in the daily lives of the Menominee people. It can make it possible for the tribe to exercise the full scope of its sovereign powers of self-government to serve the needs and wants of the tribal members, and it can assure the tribal members that their government will be responsive to their will and fair in its dealings with them.

B. Government By Constitution - Basic Principles And Guidelines.

1. The Role of Government.

It is generally stated that people establish governments for two basic purposes: The first purpose is to enable a group of people to resolve their differences, and to find acceptable solutions to their common problems so that the people can live together as a community (or as a tribe) in peace and security. This is the political function of government. The second purpose for establishing a government is to provide certain services. For example, police protection, fire protection, and recreation can be provided by a government more economically or effectively than by individuals or private organizations. Other services, such as sewage disposal, zoning, licensing or public health protection, are provided by government because individuals or private organizations cannot or have no authority to provide the services. This is the service function of government. Thus, a government should be planned to perform both the political and the service purposes as well as possible.

To enable the government to accomplish these purposes, the people grant to the government those powers which they believe to be necessary. The powers may be broad in scope, thus giving the

government much flexibility to respond to the needs of the group of people; or, the powers may be enumerated and narrowly defined, thus limiting possible abuses of power, but also limiting the flexibility of the government to respond to the needs of the people.

Powers granted to the government are exercised by means of laws. But laws are not effective until two and sometimes three of the following actions are taken:

- (1) The law is enacted;
- (2) The law must sometimes be interpreted or clarified; and
- (3) The law is enforced or put into effect.

Each of the above three actions is a power in itself because each is a necessary step to the exercise of governmental powers. If one unit of government is granted the authority to take all three of the above actions, that unit in effect has all the authority it needs to exercise all governmental powers. The fear that such complete authority in one unit of government may lead to great abuse of power has in many instances persuaded people to divide their government into more than one unit each having authority to perform one, or at the most, two of the above three actions. The most obvious example of this is the United States Constitution which has three branches, each granted the authority to perform one of the above three actions: Congress enacts laws, federal courts interpret them, and the President's office enforces them. Many smaller governments, such as those of cities, which possess lesser powers than the government of the United States, are governed by a council which possesses the authority to both enact and enforce laws. Many tribes also have councils with this dual authority.

2. The Role of the Constitution.

A constitution is the basic plan for a government. It contains the essential parts of the plan which, in the judgment of the people, will best carry out the purposes for which the government is established.

Generally, a constitution should do the following:

- (1) Establish a government which responds to and reflects the will of the people;
- (2) Establish the structure by which the powers granted to the government can be best exercised for the welfare of the people; and
- (3) Establish protections for the people against misuse of power by the government.

It is not the role of the constitution to attempt to resolve all the current problems of society. That is the role of the government once it is established by the constitution. The government will be in a much better position to study the problems of the community and to decide upon the best solutions to them. The government will also be in a better position to repeal or revise those solutions, if they are not working. And finally, the government will be able to respond much more quickly to resolve the changing problems of the community.

Thus, in addition to establishing the basic plan or structure of the government, the constitution should include only laws which are intended to be permanently binding on the government or on the people. Such laws would include those which guarantee certain fundamental and basically unchanging rights of individuals and of the tribe, such as freedom of speech and religion, and the right to prevent sales of tribal land. Such rights will thus have the kind of protection granted to provisions of a constitution in that usually constitutions are difficult to change.

II. STRUCTURING A FORM OF GOVERNMENT

A. Introduction.

When structuring a form of government, the Committee should judge various forms as to how well, in their judgment, that form will promote the three functions which a whole plan of government - that is, the whole constitution - should ultimately accomplish. That is, (1) will the form promote government responsiveness to the people's will; (2) will it promote efficient and effective government services to the people; and (3) will it make it difficult for government officials to misuse the power of government to the injury of the Tribe or to the unfair advantage of individual members?

To aid the Committee in judging forms of government, the first section of this Part will discuss the strengths and weaknesses of five general forms of government, as well as the pre-termination Menominee form of government. There is also included three different forms of tribal governments along with the constitutions that created them for the further reference of the Committee.

The second section suggests, in light of the preceding discussion, several specific considerations in choosing a Menominee form of government.

B. General Background.

1. Five General Forms Of City Government - Their Strengths And Weaknesses.

There is no one form of government that is the "best" form. Any general form is just that - general - and must be adopted to meet the needs of the particular community and to fit the conditions existing in that community.

There has never been, to our knowledge, any studies of the various forms of tribal governments. Thus, there exists no information upon which to generalize as to forms of tribal government. There is no study which compares strengths and weaknesses of the various forms of tribal government, or which traces and explains new trends in tribal forms of government.

However, there have been such studies of the various forms of municipal government in this country. And in the absence of studies of tribal governments, it should be helpful to consider the conclusions of the studies on municipal forms of government. Municipal government and tribal government are in many ways comparable. Much of the comparison between cities and tribes stems from the fact that many cities, like many tribes, including the Menominee Tribe, have small populations. (The Menominee Tribe is probably now around 3,000 people in population.) Thus, small cities, like tribes, may be faced with political factionalism based upon personalities, rather than issues. Small cities, like

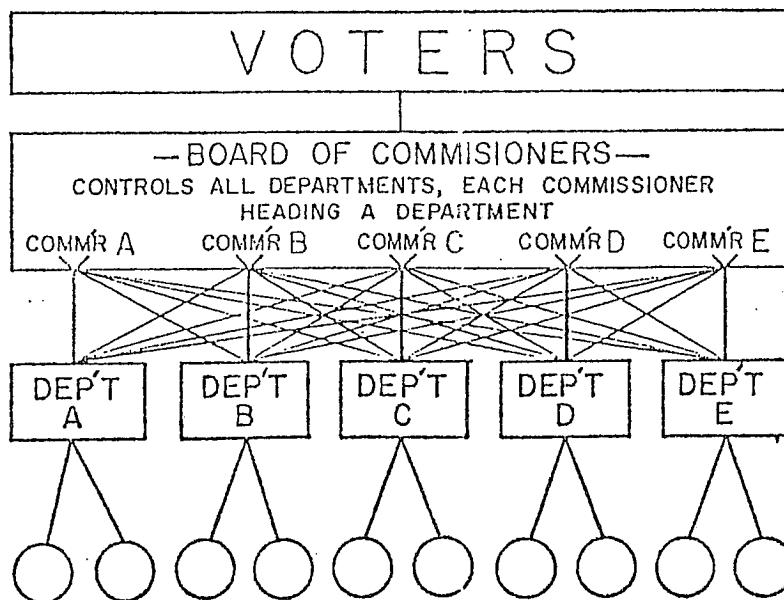
tribes, may find themselves without sufficient funds to provide the services they would like to provide and to pay good people to run the government on a full time basis.

Finally, any group of people forming a government are faced with the problem of planning a government so that those who make the decision are responsive to the will of the people (the political purpose of government), and so that the services provided and the programs established by the government are administered fairly and efficiently (the service purpose of government). Studies have generally concluded that very rarely can one find a person who is both a good policy maker and also a good administrator of policy. This problem is especially troublesome for small cities and tribes because not only is there a limited number of people from which leaders are drawn, but also political pressure is more easily placed on the policy makers in a small community by all sorts of special interest groups.

Thus, in forming their governments, small tribes, like the Menominee Tribe, face problems similar in many important respects to problems faced by a small city. Because of this similarity between cities and tribes, it should be useful to study the conclusions of various studies on forms of city government and the strengths and weaknesses of each form. Therefore, the next section will set forth the strengths and weaknesses of five general forms of city governments.

a. Commission Form.

COMMISSION FORM



A typical commission plan of government provides for five commissioners, elected at-large by the voters, to serve as a legislative and administrative body. The board of commissioners generally control all administrative departments within the city, with each commissioner heading a particular department.

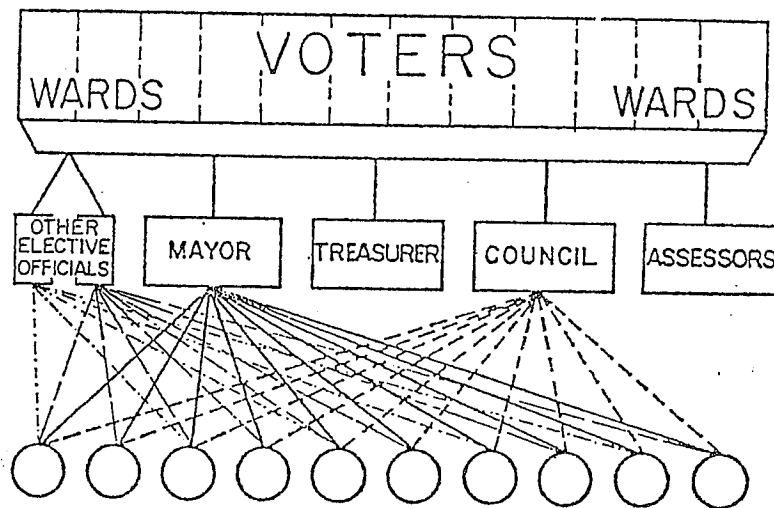
This form of government has, for several reasons, been abandoned by an increasing number of municipalities in recent years.

- (1) Commissioners, though good policymakers, are commonly not good administrators. There is no distinction in the plan between the policy-making function of government and the administrative function.
- (2) There is usually no single executive to coordinate activities of the various departments and to accept responsibility for administrative decision-making. Thus, this form promotes "buck-passing," and voters at the polls do not know who to blame for bad government or who to praise for good government.
- (3) The commission government often fails to provide sufficient checks within itself to control spending, since the officials who appropriate funds are the same officials who spend them. If the commissioners are politically ambitious, it is inevitable that each commissioner will ask for as much as he can get, even if the overall good of the government demands otherwise.

The only advantage to this form of government, if it is properly termed an advantage, is that it is simple.

b. Weak Mayor-Council Form.

WEAK MAYOR-COUNCIL FORM



This form has also been discarded by many cities in recent years. It is characterized by a major elected by the voters, an elected council which confirms departmental appointments by the mayor, separately elected department heads, and administrative boards which are either elected or appointed for overlapping terms.

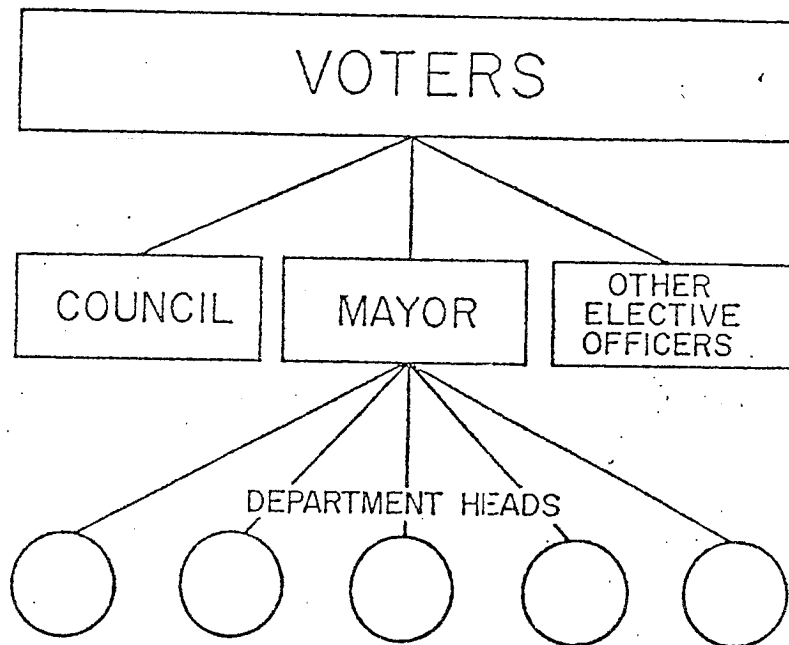
The problems of this form are similar to those of the commission form.

- (1) There is no one, unifying and responsible executive.
- (2) Control of administrative departments may be under several different persons thereby resulting in a lack of coordination and unity of effort.
- (3) The numerous elective positions results in voter confusion and lack of effective voter control.

The theory behind this form was that democracy was best served by directly electing as many officials as possible, dividing responsibility, and relying on elaborate checks and balances to prevent abuse of power. However, the form of government implementing that theory for the above three reasons proved to be inadequate in providing services efficiently and in being subject to voter control.

c. Strong Mayor-Council Form.

STRONG MAYOR-COUNCIL FORM



The strong mayor-council form of government corrects many of the problems found on the weak mayor and commission forms. Both the mayor and the council are elected; however, the elected mayor usually has the authority to hire and fire department heads without confirmation by the council, to veto acts of the council, to prepare the budget for council approval, and to administer the budget after it is adopted. Thus, the strong mayor plan corrects the most serious defects of the two previous forms in that it provides one executive who is responsible for coordinating the various departments and for administering services efficiently.

The major problems are

- (1) There may be few individuals in the community who are both sufficiently expert administrators to effectively administer government services and programs, and also sufficiently adept politicians to get themselves elected. Thus, administrative expertise may bow to political adeptness.
- (2) Political differences may arise between the mayor and the council such that daily governmental operation is impeded because the mayor may veto actions of the council, and the council controls the finances neces-

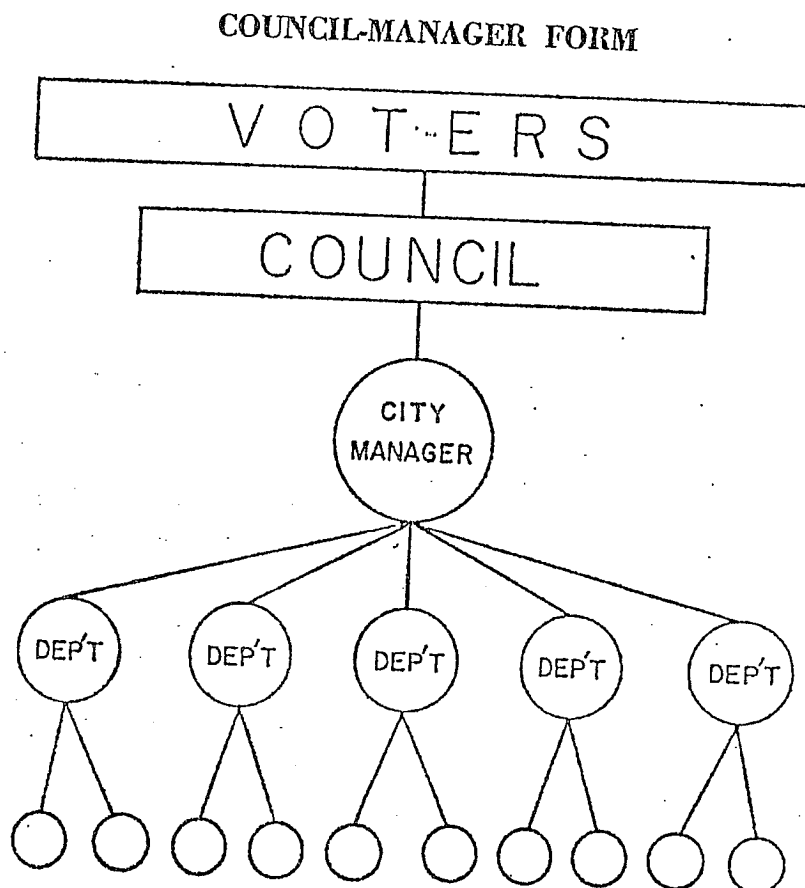
sary to administer the government services and programs.

d. Mayor-Administrator Form.

To correct some of the defects found in the strong mayor plan, some cities have experimented with the mayor - administrator form of government. The structure of the government is similar to that on the strong mayor plan except that much of the mayor's administrative responsibility is delegated to a single chief administrator who is responsible directly to the mayor.

This form has been adopted in some of the larger cities in the nation, and because it is so new, its effectiveness has yet to be adequately judged.

e. Council-Manager Form.



The council-manager plan has two basic features: a small elected council to decide policy questions; and a professionally trained manager, hired by the council and subject to dismissal by it, to administer the government programs.

The following are considered to be the major advantages of this plan of government.

- (1) Policy-making and administrative functions are separated.
- (2) The manager provides expert guidance in administrative matters.
- (3) Responsibility is centralized in a single, chief executive, i.e., the manager, who is held directly accountable to the council.
- (4) City spending may be more easily controlled.
- (5) The manger, as an employee, may be readily dismissed by the council if his work is unsatisfactory.

Major disadvantages of this form are:

- (1) The city lacks a strong political figure in position of leadership since the administrative executive (the manager) is appointed by the council.
- (2) Voter control over the city government may be somewhat decreased since voters elect only the council and have no direct control over the manager.
- (3) The cost of hiring a qualified manager may be high.
- (4) (In the case of an Indian tribe, who might wish to hire an Indian manager, there would be the additional problem of finding an Indian who was a qualified city manager.)

2. Analyses of the Pre-Termination Menominee Form of Government.

The following discussion of the pre-termination Menominee form of government is basically a summary of the main points found in two analyses, one by Gary Orfield in A Study of the Termination

Policy, Chapter 3, and the other by Verne Ray in his study entitled The Menominee Tribe of Indians, 1940-1970.

a. Explanation of the General Council Form of Government.

In 1928, the first tribal constitution established the General Council form of government. This form basically established a mechanism for making recommendations to the BIA regarding the operation of the Menominee tribal affairs. Two political entities were set up: The General Council, consisting of all adult Menominees; and the Advisory Council, consisting of twelve members, six selected at large and six from districts. The General Council was required to meet twice a year and the Advisory Council had governing authority between General Council sessions. However, the General Council held veto or appeal power over any action of the Advisory Council.

The 1928 Constitution lasted until the tribe was terminated. The constitution was specifically stated not to be an IRA constitution.

There is attached for your reference, as Exhibit A, a chart containing a diagram of the pre-termination Menominee government and copies of the pre-termination Menominee government and copies of the pre-termination Menominee constitution and bylaws - both the original uncoded version and the latest coded version.

b. Weaknesses of the General Council Form.

Both Orfield and Ray concluded in their studies that the pre-termination Menominee government failed to function as an effective government. Its ultimate failure was its incapacity to effectively combat termination of the tribe. Several reasons are stated as the bases for the failure of the government. Essentially, however, the conclusion to be drawn from the two studies is that the General Council form of government was never intended or structured to provide the service function of government (the BIA provided government services to the tribe); and, in addition, the General Council form was inadequately structured to perform the political function of government, that is, to accurately reflect the will of the Menominee people.

The General Council form of government was intended and planned simply to make policy recommendations to the Bureau of Indian Affairs who then administered the program on the reservation. In effect, the BIA was free to ignore the recommendations of the Advisory Council.

Thus, the governmental structure of the Menominee proved inadequate when the time came for the tribe to decide important policy questions quickly yet wisely. The General Council form was

not structured to allow leaders who had the necessary expertise and information to make the decisions on complex issues facing the tribe, particularly when there was no time to educate the people regarding the issue prior to a referendum. Nor did the General Council form provide a framework for making decisions which accurately reflected the will of the majority of the Menominee people, rather than the few which attended General Council meetings. Finally, the form did not provide leaders with the experience of actually operating a government and thus most felt unprepared to to accept the responsibility for decisions which were not reviewable by the BIA and which would have a tremendous and direct impact upon the lives of the Menominee people.

In summary, the General Council form of government was structurally inadequate to provide the expert leadership which the tribe needed in an emergency where the most complex issues face the tribe for decision.

3. Three Tribal Forms of Government.

There is also included for your reference, three different forms of tribal governments adopted by the following tribes: Fort Berthold Reservation (Arickara, Gros Ventres, and Mandan Tribes) (Exhibit B); Mescalero Apache (Exhibit C), and Blackfeet (Exhibit D). For each form, there is included a chart of the form and a copy of the constitution establishing the government.

These three tribal forms of government were chosen only because they illustrate three different forms of government, and three different ways of dealing with the considerations listed in the foregoing part B. Any information as to the strengths and weaknesses of each government is not available.

C. Specific Decisions Relevant To Choosing A Form Of Government For The Menominee Tribe.

While keeping in mind the three general functions which should be promoted by the form of government, the Committee in structuring a form must decide upon the following questions:

1. How many branches of government should be established and what should each be authorized to do in terms of

- (1) Enacting laws;
- (2) Enforcing laws; and
- (3) Interpreting laws?

Comment - In most city governments and in most tribal governments, the council is the governing body which is authorized to both enact and enforce laws. Usually, a three branch system of government is found only in larger governments such as the federal

government, the state governments, and the Navajo Tribe (population 119,546). An exception is, of course, the Mescalero Apache Tribe (population 1,676), whose constitution is included as Exhibit C of this part.

Generally, governments are formed with the court system separate from the governing body. Thus, the interpretation of laws becomes the duty of the courts, not the governing body. Although, you will note that in the Mescalero Apache system, the governing body is also the appellate court.

The purpose, as discussed in Part I of this handbook, in providing for at least two branches of government is to make it difficult for governmental powers to be misused. If each branch is granted only a part of the authority needed to use governmental powers, then no one branch of government can by itself use government powers without the cooperation of the branch. The disadvantage inherent in such a division of authority to use powers is that the branches may not cooperate.

Thus, with the establishment of each branch, the possibility of a lack of cooperation may be increased which in turn may hinder provision of services, but, on the other hand, it becomes more difficult for government to misuse power, and more officials are forced to consider the wisdom of a particular law.

2. What authority should be granted to each branch of government over another branch or branches?

Comment - Because the primary purpose of establishing a multi-branch government is to divide the authority to use power, it is advisable to include in the constitution a "separation of powers" provision. The purpose of such a provision is to prohibit the officials who enact laws from authorizing any branch to perform the duty of another thereby nullifying the very reason for having separate branches of government.

Generally, the power to appoint or approve appointment of officials in another branch of government, or the power to review and veto actions of another branch, are granted for the purpose of promoting more deliberation on the wisdom of a particular action. For example, the President of the United States has the duty to review and veto, if necessary, acts of the Congress. Generally, the President vetoes acts which he considers to be bad for the budget or the welfare of the people, or which he believes are not in line with the policies of his administrative leadership. Congress, in turn, can pass a law by a 2/3 vote even if it is vetoed by the President. In addition, the Congress has certain authority to review appointments of the President such as appointments of ambassadors and judges of the Supreme Court. Also, Congress has the duty to approve treaties made by the President.

Thus, the key question is whether any action taken by one branch is of sufficient importance that it should be reviewed by

another branch and vetoed or disapproved if thought necessary.

3. Which tribal officials should be elected and which should be appointed?

1. Characteristics of elected officials.

- (a) Responsive to desires of people, including groups of people with special interests;
- (b) Subject to direct removal by people at regular or special elections;
- (c) May not possess expertise in administering government programs; and
- (d) Tendency may be to reward those who helped win election or to appease strong political groups with jobs in government without regard to qualifications.

2. Characteristics of appointed officials.

- (a) More insulated from pressures of political groups;
- (b) May be responsive to whomever has power to remove (usually same person(s) who appoints) rather than to the people;
- (c) Can be chosen for expertise rather than appeal to people; and
- (d) Not subject to direct removal by the people.

Comment - Based on the above characteristics, it is generally believed that officials who are responsible for establishing general governmental or tribal policies should be elected, while those who are responsible for efficient and expert administration of government programs implementing the policies should be appointed by elected officials.

To hinder appointments under a "spoils system", the official should be required to consider appropriate qualifications for the job available. Generally, if the appointee must be able to cooperate closely with the elected official, it is better to allow the elected official to remove the appointee at will because if they cannot cooperate the programs will not be implemented efficiently or perhaps at all. But if it is advisable that the appointee be independent, for example, a judge, it is better to set forth what causes constitute grounds for removal and perhaps even to set forth the procedure to be followed before removal.

4. How many officials should there be?

Comment - In the governing body, there should be enough to adequately represent the people, but not so many that the operation of government becomes difficult to manage, or so that the people are not able to keep track of the performance of any one official. The number usually suggested for small governments is five to nine.

5. Should the officials be elected at large or from districts or should there be a combination of the two methods of election?

Comment - Election of tribal officials by districts sometimes tends to prevent real majority rule. A majority in each of a majority of the districts is not necessarily a majority of the electorate. Then, too, the petty issues of the various factions of the tribe may come to predominate over those that concern the whole tribe, and leaders who have tribal views and followings will be swallowed up in the large number of representatives who are district-rather than tribal-minded. The district system may lead to bitter struggles to achieve a fair redistricting as the tribe grows and the population shifts. To overcome these and a number of related problems, the constitution may provide that all or a substantial proportion of the tribal officials will be elected by all the people. Only 25 per cent of cities over 5,000 use the district system. 59 per cent use the at-large system.

The combination system, whereby a certain number of candidates are elected at large and others by districts, may be particularly useful in large communities or in communities where it is felt that election of all officials at large would leave important elements in certain parts of the community with a feeling of being permanently unable to win representation.

6. Terms of office - how long should they be and should they be staggered?

Comment - The goal of the Committee in answering this question should be to decide what length of term of office will provide continuity, stability and experienced leadership without resulting in stagnant government and without excessively reducing the voters' control over the governing body. Staggered terms of office promote continuity and stability in government. A term of two years may be too short to permit a new official to gain the experience and knowledge he needs to be able to function effectively in office. A term longer than four years may result in stagnant government.

7. What should the qualifications of tribal officials be?

Some possible qualifications are:

- (1) Tribal membership.
- (2) Indian descent (with regard to appointed officials).
- (3) Resident of reservation.
- (4) Age.
- (5) Qualified voter of reservation or appropriate district.
- (6) Expertise in some area (particularly with regard to appointed officials).

Comment - Generally, qualifications should be required only if they will promote a better job in the particular government office under consideration. Tribal membership, of course, should be a qualification of elected representatives.

8. Should tribal officials be compensated?

Some considerations pertinent to this decision are:

- (1) How much time will the official be required to devote to his office?
- (2) The Tribe should expect to pay an official who is appointed or hired primarily for his or her expertise in an area an appropriate salary.
- (3) How much compensation can the tribal budget bear without sacrificing quality in tribal programs?
- (4) Salaries should be established by formal action of the governing body.

Comment - If the constitution allows elected officials to be compensated, it might also prohibit the amount of compensation from being raised or reduced during any particular official's term of office.

Experience with regard to city governments has shown that salaries of city council members should be nominal where the council members are policy makers and do not actually administer the government's programs. The conclusion is that a generous salary is likely to attract candidates who are interested more in the income than in rendering public service. Also, the experience of cities shows that too large of salary could encourage council members to think of themselves as managers and thus distract them from their role as policy makers responsive to the people. But where council members are also administrators of programs, a salary commensurate with their duties might be considered.

9. What should be the structure of each branch of the government, if more than one; that is, should subordinate units be created within each branch?

If specific units within branches are created in the constitution, the following are considerations to keep in mind.

1. The purpose of subordinate government units is to carry-out government policies efficiently and effectively in the form of programs providing services.
2. Experience has shown that the performance of a government unit is best where a line of responsibility ends with one person, rather than a group of persons such as a board or commission.
3. Experience has also shown that it is easier for the policy makers to oversee the implementation of programs if they can look to one person who is responsible for the performance of a unit.
4. It is not advisable to provide for the direct election of officials who head subordinate units because this results in more people for the voters to keep track of, and it also results in confusion as to who is really to be held responsible for the broad results of a government program, i.e., the policy makers or the subordinate administrators.
5. Boards, commissions, and committees, if they are to be created, operate best for purposes of advising, planning, or reviewing.

Comment - It is advisable for the Committee to keep the structure of each branch of government as simple as possible in the Constitution. This can be done by authorizing the governing body to create (or abolish) whatever subordinate units it deems necessary. If the Committee feels that certain departments or units are absolutely necessary, it can list the units and their purpose and impose a duty on the governing body to create and implement the units. The Constitution can also determine how the officials of the subordinate units will be selected, by election or by appointment. It can also establish qualifications for office and so forth. However, again, it is best to keep reference to subordinate units in the constitution to a minimum, thus allowing the governing body to modify, eliminate or create new ones as the need arises.

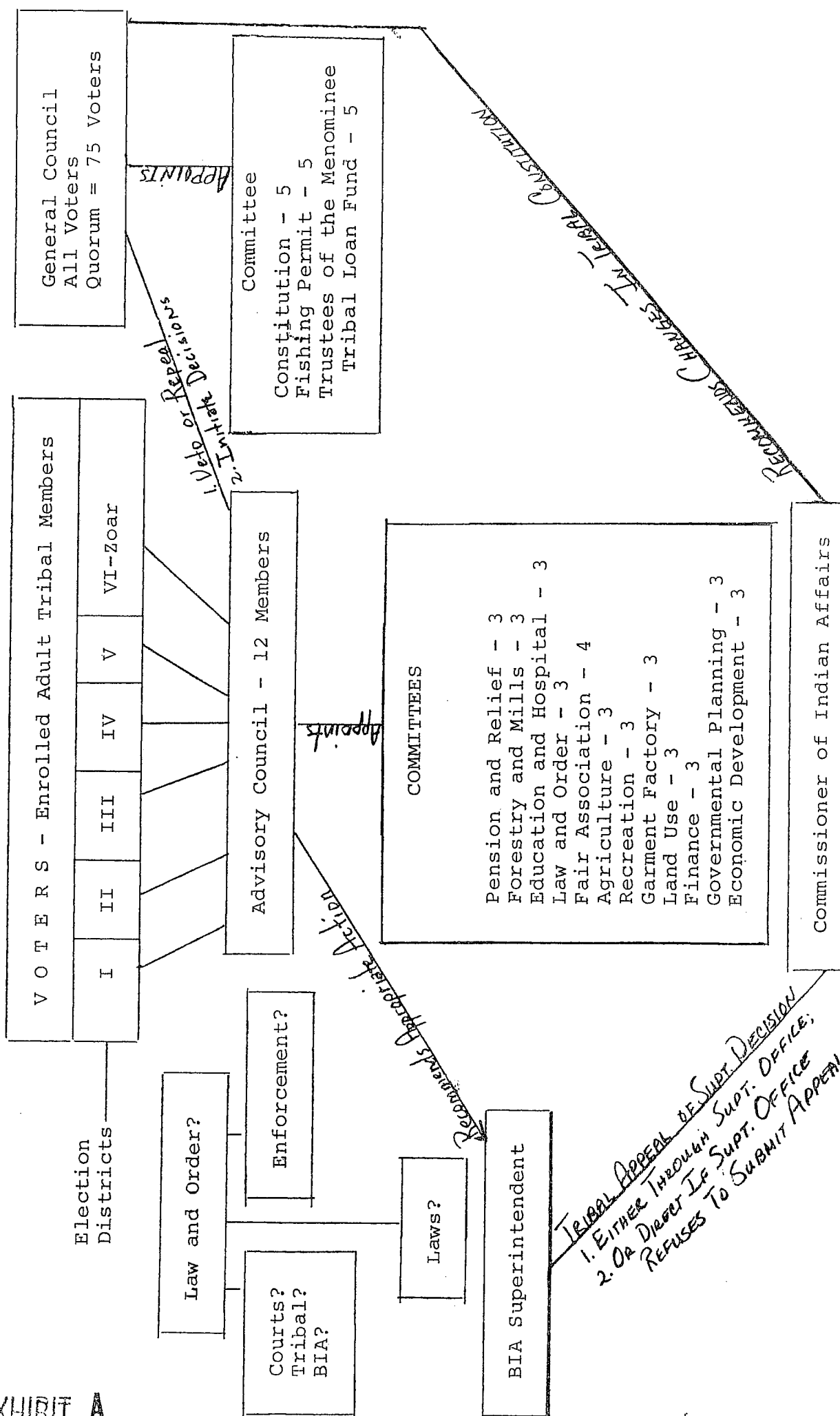
10. Courts - Special Considerations.

The foregoing questions generally apply to the court system, but there are some considerations which are unique to the court

system, especially tribal courts.

1. Jurisdiction of the court must be defined - can be the same or less than jurisdiction claimed in jurisdiction provision.
2. The constitution may establish both trial courts and appellate courts.
3. The Committee should decide whether the courts should be authorized to review and invalidate actions of the other branches as being in violation of the constitution. The courts could be authorized only to interpret laws and resolve disputes between people.
4. If the courts are authorized to review and invalidate actions of other branches, then some provisions should be made to insulate the courts from being controlled by the other branches. This can be done by providing for election of judges, or by providing for initial appointments for long terms subject to renewal if approved by a vote of the people, or by appointing for life, subject to removal for cause.
5. Constitution should authorize and direct either courts or the governing body to establish court rules and procedures.
6. Qualifications of judges. Should judges be required to have knowledge of the Menominee traditions and cultures so that court decisions can be based in part upon that knowledge? Should judges be required to have some knowledge of the laws of the federal government? Remember that tribal courts are bound by the Indian Bill of Rights (25 U.S.C. §§1301, and 1302).
7. Should judges be elected or appointed? The decision on this question depends in part on whether and to what extent a judge should be influenced by the will of the people. It also depends, in part, on whether a judge should be chosen for his or her appeal to the voters or primarily upon expertise and ability to make fair decisions on matters in dispute between persons, or between persons and the government.

EXHIBIT A



AMENDED
CONSTITUTION AND BY-LAWS
COVERING THE ELECTION AND DUTIES OF AN
ADVISORY COUNCIL OF THE MENOMINEE INDIANS
OF THE KESHENA AGENCY, WIS.

As Amended by
Tribal Council of February 11, 1928

As Amended by
General Council on September 22, 1934

and approved
by the Commissioner on November 6, 1934

As Amended by
General Council of the Menominee Tribe
and approved
by the Indian Office on February 14, 1942

AN ADVISORY COUNCIL OF THE MENOMINEE INDIANS OF THE

KESHENA AGENCY, WISCONSIN

1. A Committee of Menominee Indians, to be known as "The Advisory Council of the Menominee Indian Reservation", shall be selected to consist of ten enrolled and recognized adult members of the Menominee Tribe.

2. The method of selection shall be as follows: All ten members shall be elected by the adult members of the tribe in the manner hereinafter described: Those desiring to be candidates shall, not less than ten days before election day, file their names in the office of the Superintendent of the Reservation, supported by a petition signed by not less than twenty-five qualified voters of the Tribe. An election committee consisting of six members of the tribe shall be designated, in a manner to be determined by the General Council prior to such election, to provide for qualification and review of nominees. The Superintendent shall prepare a ballot containing the names of all the nominees so filed. Election shall be held on a day in September to be designated by the Superintendent and properly advertised for not less than thirty days prior thereto. An election board shall consist of an Inspector, Clerk, and Ballot Clerk, to be selected by the bystanders at the time designated for the opening of the polls, and who shall immediately thereafter declare the polls open. Polls shall be open at 9:00 a.m. and remain open until 5:00 p.m. Each voter shall obtain from the ballot clerk an official ballot, which shall bear the endorsement of the ballot clerk. The voter shall immediately mark his choice of ten from the list of candidates, and deliver the ballot to the inspector who shall deposit same in the ballot box, and announce to the clerk the name of the voter, which shall be written on the polling list by the clerk. In case any voter is not able to prepare his ballot, he may call upon any member of the election board to assist him. Immediately after the closing of the polls, the

ballet box shall be opened and the votes counted by the election officers. The ballots and tally sheets shall then be delivered to the Superintendent, who, with the two judges of the Indian court of the Monominee Reservation, shall constitute the canvassing board. The ten candidates receiving the highest number of votes shall be declared elected.

3. The ten members so chosen shall take office on the third Monday in October, or as soon thereafter as practicable following their election, and shall hold office for two years and until their successors are chosen and qualify.

4. Should any vacancy arise in the Advisory Council by the death, resignation, or otherwise, of any of its members, said vacancy shall be filled by the Tribal council.

5. Before entering upon duty, each member of the Advisory Council shall subscribe in the presence of the Superintendent of the Reservation the following oath: "I, (name), do solemnly swear that I will support and defend the Constitution of the United States of America, and faithfully execute the office to which I have been elected."

6. At the first regular meeting held by the Advisory Council after its election, it shall select from its members a president and a secretary. The president's duties shall be to preside at all meetings when present, and the secretary's duty shall be to keep a record of all proceedings, and file a certified copy of the same in the office of the Superintendent, within ten days after the meeting. In the absence of either of the above officers, the Advisory Council shall elect a president or secretary pro tem. No business shall be transacted without the presence of a quorum, which shall consist of a majority of the members of the Council. The minutes of the Council shall be signed by the president and secretary and at least three other members of the Council.

7. The regular meetings of the Council shall begin each year on the third

Monday in October, or as soon thereafter as practicable after the new Council is elected. In case of exigency, the President of the Council may call a special meeting of the Council, upon a request in writing by the majority of the Council members. All meetings are to be held in Keshena or Keopit, in the discretion of the Council. The total length of time consumed for all such meetings shall not exceed fifteen days in any one year.

8. The Advisory Council as above constituted shall be the representatives of the Menominee Tribe of Indians in all matters affecting the welfare and business of the Tribe, including the conduct of the logging and milling operations on the Reservation, and it shall be the duty of the Council to consider all matters brought to its attention by the members of the Tribe, or by the Superintendent, or that may arise through its own investigations, and shall submit to the Superintendent of the Reservation for appropriate action such recommendations as it has to make. If the Superintendent fails to take satisfactory action, the Council may appeal to the Commissioner of Indian Affairs, through the Superintendent of the Reservation, and if the Superintendent of the Reservation fails or refuses to submit such appeal, the Council may communicate direct with the Commissioner of Indian Affairs.

9. Each member of the Advisory Council shall receive as compensation for his services, \$5.00 for each day's attendance at the regular and special meetings, and 10¢ per mile for the distance necessarily traveled from his home to the meeting place and return: Provided, that compensation shall not be paid for more than fifteen days in one year. This compensation shall be paid by check, drawn by the Superintendent of the Reservation from tribal funds applicable.

10. The Tribal Council may recommend to the Commissioner of Indian Affairs any changes in these regulations that may, at any time in its judgment, seem advisable.

11. Candidates for membership in the Advisory Board shall be appointed on the basis of one representative for each 200 tribal members, it being the purpose of this provision to reflect district representation, each district being permitted to vote only for the representative of that district.

12. (1) Regular and special general councils shall be called on dates to be determined upon and fixed by the Advisory Board with the approval of the Superintendent. At least one general or special council shall be held in each six months period of the calendar year.

(2) A meeting of the general council shall not be recognized as such unless there shall be present at the time of the meeting at least 100 members of the Menominee Indian Tribe who are eligible to vote. It shall be the duty of the chairman of the general council, prior to any vote being taken on any question pending before the council to ascertain and determine whether a quorum is present and in the absence of a quorum no business shall be transacted.

(3) The Advisory Board shall, during the period when the general council is not in session, transact business of the tribe and any action properly taken by the Advisory Board shall be binding upon the tribe unless and until it shall have been repealed by the general council duly assembled for that purpose.

(4) In lieu of the present ten election districts into which the Menominee Reservation is divided, the Reservation shall be divided into five election districts (such division to be effected by the Advisory Council, each district to consist of not less than 300 tribal members) and there shall be elected by the qualified voters living therein one councilman from each of the five districts and five councilmen from the tribe at large by the qualified voters of the entire tribe.

(5) Notices of all meetings of the general council shall be published at least ten days preceeding the date of the meeting in the "Menominee Minutes"

the tribal newspaper and by placing copies of such notice on the bulletin boards at the Keshena Agency, the office of the Menominee Indian Mills, the post offices in Keshena and Neopit, at the punch clocks of the saw mill, planing mill, and the yard, at the South Branch Ranger Station, the bulletin boards of the community centers at Zoar and West Branch and such other places as may be determined upon from time to time. Such notices in addition to containing the date, the time and place of the meetings, shall list in numerical order the business to come before the meeting and no business not so listed shall be transacted before the meeting of the council.

(5) The notices of all meetings of the general council shall be prepared by the Superintendent of the reservation, but shall include all items requested by (1) the Advisory Board, (2) the manager of the Menominee Indian Mills, (3) any petition duly signed by 250 qualified voters of the Menominee Tribe, and may include such other items as the Superintendent desires to present to the tribe. Such requests shall be in writing and shall clearly state the nature of the business. They shall be dated and signed by the parties presenting the same and shall be presented to the Superintendent of the Menominee Reservation at least 24 hours in advance of the publication of the notice of the particular general or special meeting of the council.

(7) The election of the councilmen provided for in Item 4, supra, for the year 1942 shall be held in January of that year, (the precise date to be determined by the Superintendent) and the terms of the councilmen so elected shall expire on the third Monday in October 1943 or as soon thereafter as their successors are chosen and qualified; for the year 1943 and every two years thereafter the election of the councilmen shall be held on a day in September. Except as herein stated the provisions of the Constitution and by-laws governing the

election and duties of the Advisory Council of the Menominee Indian approved by the Commissioner of Indian Affairs and Secretary of the Interior on February 11, 1928, as amended November 26, 1934 shall govern the transaction of Tribal business. These regulations shall not be construed as the adoption of any charter under the Indian Reorganization Act.

R E S O L U T I O N

"RESOLVED, that it is the sentiment of the Menominee Indian Tribe in general council assembled this seventeenth day of October, 1942, that Section Seven of the Resolution concerning the transaction of Tribal Business, adopted by the Tribe on December 13, 1941, as amended on February 14, 1942, is amended to read as follows:

"The election of councilmen provided for in Section Four, supra, for the year 1942, shall be held on November 24, 1942. The terms of the Councilmen so elected shall expire on the 30th day of November, 1944, or as soon thereafter as their successors are elected and qualified."

"All elections for Councilmen held after this presently provided for election shall be held in November of even numbered years, on a date to be specified by the Superintendent or the General Council; it being the intention herein to coincide such elections with the general state elections held on the Tuesday following the first Monday in November of even numbered years. The terms of Councilmen elected hereunder shall expire on November 30 of even numbered years."

"Except as herein stated the provisions of the Constitution and by-laws governing the election and duties of the Advisory Council of the Menominee Indians approved by the Commissioner of Indian Affairs and Secretary of the Interior on February 11, 1938, as amended November 26, 1931, shall govern the transaction of Tribal business. These regulations shall not be construed as the adoption of any charter under the Indian Reorganization Act."

"I hereby certify that the above resolution was presented to the General Council of the Menominee Tribe of Indians, October 17, 1942, and adopted by a vote of 68 to nothing.

(Sgd) Joseph Koshorn
Chairman

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CODIFICATION OF THE CONSTITUTION AND BY-LAWS
OR RULES OF THE RENOMINEE INDIAN TRIBE,
ADVISORY AND GENERAL COUNCILS.

- SEC. 1. ADVISORY COUNCIL, DISTRICTS, SELECTION OF COUNCILMEN.
- SEC. 2. ELECTION DISTRICTS AND ELECTORS THEREIN.
- SEC. 3. NUMBER OF COUNCILMEN AND METHOD OF SELECTION.
- SEC. 4. CANDIDATES FOR COUNCIL, TIME OF FILING.
- SEC. 5. PREPARATION OF BALLOT.
- SEC. 6. ELECTION, DATE THEREOF.
- SEC. 7. ELECTION BOARD, ITS FUNCTIONS.
- SEC. 8. CLOSING OF POLLS AND COUNTING BALLOTS.
- SEC. 9. CRAWPASSING BOARD AND ITS DECISION.
- SEC. 10. ELECTED MEMBERS TO TAKE OFFICE.
- SEC. 11. FILLING VACANCIES.
- SEC. 12. OATH OF OFFICE.
- SEC. 13. ORGANIZATION OF COUNCIL AND ELECTION OF ADVISORY COUNCIL OFFICERS.
- SEC. 14. DUTIES OF PRESIDENT AND SECRETARY.
- SEC. 15. QUORUM ADVISORY COUNCIL.
- SEC. 16. APPROVAL OF ADVISORY COUNCIL.
- SEC. 17. REGULAR SPECIAL MEETINGS.
- SEC. 18. PLACE OF MEETINGS AND TIME LIMITATION.
- SEC. 19. ADVISORY COUNCIL'S DUTIES AND RESPONSIBILITIES.
- SEC. 20. COUNCIL SHALL MAKE RECOMMENDATIONS TO SUPERINTENDENT.
- SEC. 21. COUNCIL MAY APPEAL TO COMMISSIONER.
- SEC. 22. COUNCIL TO ACT FOR TRIBE WHEN GENERAL COUNCIL NOT IN SESSION.
- SEC. 23. GENERAL COUNCIL MAY REPEAL ACTIONS OF ADVISORY COUNCIL.
- SEC. 24. COMPENSATION OF MEMBERS OF ADVISORY COUNCIL.
- SEC. 25. GENERAL COUNCIL MEETINGS, NUMBER THEREOF.
- SEC. 26. QUORUM GENERAL COUNCIL.
- SEC. 27. NOTICE AND POSTING OF GENERAL COUNCIL MEETINGS.
- SEC. 28. NOTICE OF BUSINESS TO BE TRANSACTED.
- SEC. 29. PREPARATION OF NOTICES.
- SEC. 30. ITEMS TO BE INCLUDED IN NOTICES, BY WHOM SUBMITTED.
- SEC. 31. RECOMMENDATIONS TO COMMISSIONER.
- SEC. 32. CONSTRUCTION, REORGANIZATION ACT.

NOTE. REFERENCES IN THIS CODE TO THE CONSTITUTION AND BY-LAWS ARE TO THE CONSTITUTION AND BY-LAWS GOVERNING THE ELECTION AND DUTIES OF AN ADVISORY COUNCIL OF THE RENOMINEE INDIANS AND OF THE GENERAL COUNCIL AS AGREED BY THE TRIBAL COUNCIL AND APPROVED BY THE SECRETARY OF THE INTERIOR OR THE COMMISSIONER OF INDIAN AFFAIRS ON FEBRUARY 11, 1933, September 22, 1934.

RULES OF THE MENOMINEE INDIAN TRIBE, AD-

VISORY AND GENERAL COUNCILS

References in this Code to the Constitution and By-Laws are to the Constitution and By-Laws governing the election and duties of an Advisory Council of the Menominee Indians and of the General Council as amended by the Tribal Council and approved by the Secretary of the Interior or the Commissioner of Indian Affairs on February 11, 1938, September 22, 1934.

SEC. 1. ADVISORY COUNCIL, DISTRICTS, SELECTION OF COUNCILMEN. A committee of the Menominee Indians to be known as the 'Menominee Advisory Council of the Menominee Indian Reservation' shall be selected consisting of twelve (12) enrolled adult members of the Menominee Indian Tribe, one (1) each to be elected from Districts I, II, III, IV, V, and the Zoar Area, to be known hereafter as District VI. (As amended, and approved by the Acting Commissioner of Indian Affairs on October 9, 1950.)

SEC. 2. ELECTION DISTRICTS AND ELECTORS THEREIN. The Menominee Reservation shall be divided into six (6) election districts, such division to be effected by the Advisory Council except that the Zoar Area shall always constitute one district. Each district shall consist of not less than 250 tribal members, except at District VI (Zoar Area) may consist of a smaller number. (As amended and approved by the Acting Commissioner of Indian Affairs on October 9, 1950.)

SEC. 3. NUMBER OF COUNCILMEN AND METHOD OF SELECTION. There shall be elected the qualified voters living therein one (1) councilman from each of the six (6) districts and six (6) councilman from the Tribe at large by the qualified voters the entire Tribe. (As amended, and approved by the Acting Commissioner of Indian Affairs on October 9, 1950.)

SEC. 4. CANDIDATE FOR COUNCIL, TIME FOR FILING. The twelve (12) members of the Advisory Council are to be elected by the adult members of the Tribe as provided for in SEC. 3 of this Code, in the manner hereinafter described: All qualified, enrolled members of the Tribe desiring to be candidates shall not less than ten (10) days preceding election day file their names in the office of the Superintendent of the Reservation, supported by a petition signed by not less than twenty-five (25) qualified voters of the Tribe. (Source of this section is paragraph 2 of the Constitution and By-laws and paragraph 7 of the Regulations adopted by the Tribe, December 13, 1941, as amended October 17, 1942.)

SEC. 5. PREPARATION OF BALLOT. The superintendent shall prepare a ballot containing the names of all the candidates whose names have been filed as prescribed in SEC. 4 of this Code. (Source of this section is paragraph 2 of the Constitution and By-laws and paragraph 7 of the Regulations adopted by the Tribe, December 13, 1941, as amended October 17, 1942.)

SEC. 6. ELECTION, DATE THEREOF. Election day shall be held on the Tuesday following the first Monday in November and shall be advertised properly for not less

than thirty (30) days prior thereto. (Source of this section is paragraph 2 of the Constitution and By-laws and paragraph 7 of the Regulations adopted by the Tribe, December 13, 1941, as amended October 17, 1942.)

SEC. 7. ELECTION BOARD, ITS FUNCTIONS. The election board shall consist of an inspector, clerk, and ballot clerk, all of whom shall be selected by the bystanders at the polls, located within each of the several election districts at the time designated for the opening of the polls. The inspector, clerk, and ballot clerk, after their selection, shall immediately declare the polls open. The time for opening the polls shall be 9:30 A.M. and the polls shall remain open until 5 P.M. Each voter shall obtain from the ballot clerk an official ballot which shall bear the endorsement of the ballot clerk. The voter shall promptly mark his choice from the list of candidates and deliver the ballot to the inspector who shall deposit same in the ballot box and announce to the clerk the name of the voter. The clerk shall immediately write the name of the voter on the polling list. In case any voter is not able to prepare his ballot, he may call upon any member of the election board to assist him. (Source of this section is paragraph 2 of the Constitution and By-laws and paragraph 7 of the Regulations adopted by the Tribe, December 13, 1941, as amended October 17, 1942.)

SEC. 8. CLOSING OF POLLS AND COUNTING OF BALLOTS. Immediately after the closing of the polls at 5 P.M. the ballot box of each district shall be opened by the election officers and the ballots counted. The ballots and tally sheets shall then be delivered by the election officers to the Superintendent of the Reservation. (Source of this section is paragraph 2 of the Constitution and By-laws and paragraph 7 of the Regulations adopted by the Tribe, December 13, 1941, as amended October 17, 1942.)

SEC. 9. CANVASSING BOARD AND ITS DECISION. The Superintendent and the two judges of the Indian Court of the Menominee Reservation shall constitute the canvassing board. The six (6) at large candidates and each District Candidate receiving the highest number of votes shall be declared elected. (Source of this section is paragraph 2 of the Constitution and By-laws and paragraph 7 of the Regulations adopted by the Tribe, December 13, 1941, as amended October 17, 1942.)

SEC. 10. ELECTED MEMBERS TO TAKE OFFICE. The twelve (12) candidates declared elected by the Canvassing Board (SEC. 9 of this Code) shall take office on the 30th day of November or as soon thereafter as practicable following their election and shall hold office for two (2) years and until their successors are elected or chosen and qualify. (Source of this section is paragraph 3 of the Constitution and By-laws and paragraph 7 of the Regulations adopted by the Tribe, December 13, 1941, as amended October 17, 1942.)

SEC. 11. FILLING VACANCIES. Should any vacancies arise in the Advisory Council by death, resignation, or otherwise of any of its members, said vacancies shall be filled by the General Council. (Source of this section is paragraph 4 of the Constitution and By-laws.)

SEC. 12. OATH OF OFFICE. Before entering upon duty each member of the Advisory Council shall subscribe, in the presence of the Superintendent of the Reservation, the following oath: "I, (name), do solemnly swear that I will support and defend the Constitution of the United States of America, and faithfully execute the office to which I have been elected." (Source of this section is paragraph 5 of the Constitution and By-laws.)

SEC. 13. ORGANIZATION OF COUNCIL AND ELECTION OF ADVISORY COUNCIL'S OFFICERS. The first regular meeting to be held by the Advisory Council after its election shall select from its members a President and a Secretary. (Source of this section is paragraph 6 of the Constitution and By-laws.)

SEC 14. DUTIES OF PRESIDENT AND SECRETARY. The President's duties shall be to preside at all meetings when present. He shall devote his full time to tribal matters. His salary shall be \$2400 per annum. The Secretary's duties shall be to keep a record of all proceedings and file a certified copy of same in the office of the Superintendent within ten (10) days after each meeting. In the absence of either the President or Secretary, the Advisory Council shall elect a President or Secretary, pro tem. (Source of this section is paragraph 6 of the Constitution and By-laws, the Act of Congress of July 12, 1943, (57 Stat. 469) as supplemented or amended, and the approval of the General Council of June 24, 1944, of the Council's budget approved by the Commissioner of September 11, 1944.)

SEC. 15. QUORUM ADVISORY COUNCIL. No business shall be transacted without the presence of a quorum which shall consist of the majority of the members (12 members) of the Advisory Council. (Source of this section is paragraph 6 of the Constitution and By-laws.)

SEC 16. APPROVAL OF ADVISORY COUNCIL'S MINUTES. The minutes of the Advisory Council shall be signed by the President and Secretary and at least three (3) other members of the Council. (Source of this section is paragraph 6 of the Constitution and By-laws.)

SEC 17. REGULAR AND SPECIAL MEETINGS. As soon as practicable after an Advisory Council has been elected, it shall hold its first meeting. In case of emergency, the President of the Advisory Council may call a special meeting of the Council upon a request in writing by a majority of its members. (Source of this section is paragraph 7 of the Constitution and By-laws, as amended by paragraph 7 of the Regulations adopted by the Tribe, December 13, 1941, as amended October 17, 1942.)

SEC. 18. PLACE OF MEETINGS AND TIME LIMITATION. All meetings of the Advisory Council shall be held in Keshena or Neopit in the discretion of the Council. Effective as of January 1, 1951, the Advisory Council shall meet regularly once each month and may hold as many special meetings as may be necessary to conduct tribal business. (As amended, and approved by the Commissioner of Indian Affairs on June 4, 1952.)

SEC 19. ADVISORY COUNCIL'S DUTIES AND RESPONSIBILITIES. The Advisory Council shall be the representatives of the Menominee Tribe of Indians in all matters affecting the welfare and business of the Tribe, including the conduct of the logging and milling operations on the Reservation. It shall be the duty of the Advisory Council to consider all matters brought to its attention by the members of the Tribe or by the Superintendent or that may arise through its own investigation. (Source of this section is paragraph 8 of the Constitution and By-laws and paragraph 3 of the Regulations adopted by the Tribe, December 13, 1941, as amended October 17, 1942.)

SEC 20. COUNCIL SHALL MAKE RECOMMENDATIONS TO SUPERINTENDENT. The Advisory Council shall submit to the Superintendent of the Reservation for appropriate action such recommendations as it has to make. (Source of this section is paragraph 8 of the Constitution and By-laws and paragraph 3 of the Regulations adopted by the Tribe, December 13, 1941, as amended October 17, 1942.)

SEC 21. COUNCIL MAY APPEAL TO COMMISSIONER. If the Superintendent fails to take the satisfactory action on recommendations of the Advisory Council this Council may appeal to the Commissioner of Indian Affairs, through the Superintendent of the Reservation. If the Superintendent of the Reservation fails or refuses to submit such appeal to the Commissioner, the Council may communicate directly with the Commissioner of Indian Affairs. (Source of this section is paragraph 8 of the Constitution and By-laws and paragraph 3 of the Regulations adopted by the Tribe, December 13, 1941, as amended October 17, 1942.)

SEC. 22. COUNCIL TO ACT FOR TRIBE WHEN GENERAL COUNCIL NOT IN SESSION. The Advisory Council shall, during the period the General Council is not in session, transact business of the Tribe and any action properly taken by the Advisory Council shall be binding upon the Tribe until repealed. (Source of this section is paragraph 8 of the Constitution and By-laws and paragraph 3 of the Regulations adopted by the Tribe, December 13, 1941, as amended October 17, 1942.)

SEC. 23. GENERAL COUNCIL MAY REPEAL ACTIONS OF ADVISORY COUNCIL. The General Council duly assembled for that purpose may repeal any action taken by the Advisory Council. (Source of this section is paragraph 8 of the Constitution and By-laws and paragraph 3 of the Regulations adopted by the Tribe, December 13, 1941, and amended October 17, 1942.)

SEC 24. COMPENSATION OF MEMBERS OF ADVISORY COUNCIL. Each member of the Advisory Council, except the President, shall receive as compensation for the services \$8.00 for each day's attendance at the regular and special meetings. No compensation shall be paid for more than fifteen (15) days in any one year. Compensation of the members of the Advisory Council shall be paid by check drawn by the Superintendent of the Reservation from tribal funds applicable. (Source of this section is paragraph 9 of the Constitution and By-laws as superseded and amended by General Council action on June 24, 1944, as approved by the Commissioner of Indian Affairs September 11, 1944, pursuant to the Act of Congress of July 12, 1943 (57 Stat. 469) as supplemented or amended.)

GENERAL COUNCIL

SEC 25. GENERAL COUNCIL MEETINGS, NUMBER THEREOF. There shall be held two (2) regular General Councils and as many special General Councils as the occasion demands in any calendar year. The dates of the general and special Councils shall be determined and fixed by the Advisory Council with the approval of the Superintendent. At least one (1) Council, general or special, shall be held in each six (6) month's period of the calendar year. (Source of this section is paragraph 1 of Regulations adopted by the Tribe, December 13, 1941.)

SEC 26. QUORUM GENERAL COUNCIL. A meeting of the General Council shall not be recognized as such unless there shall be present at the time of the meeting and when any action is to be taken at least seventy-five (75) enrolled, adult members of the Menominee Indian Tribe who are eligible to vote. It shall be the duty of the Chairman of the General Council, prior to any vote being taken on any questions pending before the General Council, to ascertain and determine whether a quorum is present. In the absence of the quorum no business shall be transacted. (Source of this section is paragraph 2 of the Regulations adopted December 13, 1941, as amended June 19, 1943.)

SEC. 27. NOTICE AND POSTING OF GENERAL COUNCIL MEETINGS. Notices of all meetings, general or special, of the General Council shall be published at least ten